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8 IN THE UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 ROBERT POOLEY,

15 Defendant.

CASE NO. 2:21-CR-111 WBS

GOVERNMENT'S SENTENCING
MEMORANDUM

DATE: September 30, 2024

TIME: 10:00 a.m.

COURT: Hon. William B. Shubb

16
17 **I. INTRODUCTION**

18 Robert Pooley lied to tandem instructor candidates for more than a year, scamming them out of
19 over a thousand dollars each by promising them certifications he knew he was not qualified to deliver.
20 He delivered only illegitimate, forged signatures. Ultimately, all of his students lost the money they
21 paid him and never got or lost the tandem instructor certifications through which they sought to make
22 their livings. Pooley's criminal conduct follows and is in keeping with his history of flouting the law
23 and his obligations to others. He has never shown any acceptance of responsibility or remorse for his
24 crimes. The United States respectfully requests, as does the Probation Officer, that the Court impose a
25 27-month sentence on Counts 2 and 3 of the Indictment.

26
27 **II. SENTENCING ANALYSIS**

28 Each of the factors guiding sentencing pursuant to 18 U.S.C. § 3553(a) weigh in favor of a high
end 27-month sentence.

1 **A. The nature and circumstances of the offense**

2 Pooley's criminal offense was serious, premeditated, spanned a long period of time, and did very
3 real harm. The very same night that Pooley learned that UPT had suspended his tandem Examiner
4 rating, Pooley obtained and emailed himself the tools he used to commit the crime: the electronic
5 signature and initials of certified Examiner Yuri Garmashov. He created fraudulent forms to use for his
6 courses, with Garmashov's signature and initials in the Examiner sections instead of his own. During
7 the same time period he was creating the tools to masquerade as an Examiner, Pooley was emailing
8 USPA Director of Safety and Training Jim Crouch acknowledging his suspension and that courses had
9 to be run by another Examiner from start to finish. *See PSR ¶ 15.* Pooley continued marketing himself
10 as an Examiner to students who sought to become tandem Examiners. He took their money, knowing
11 that what they wanted out of his course was to become USPA and UPT certified Tandem Instructors,
12 knowing that a signature of a legitimate Examiner was necessary for them to obtain those certifications,
13 and knowing that he was not a legitimate Examiner.

14 Pooley's lies and failure to deliver impacted real peoples' lives. Each of the students who paid
15 him never got or lost the Tandem Instructor ratings they needed to support themselves, and either had to
16 pursue job opportunities outside tandem instructing, like the lower-paying role of videographer, or pay
17 again to retake the course from an actual certified Examiner. Pooley's victims were not rich. Most lived
18 in foreign countries and bought expensive international plane tickets to come to the U.S. and pay for
19 transportation and lodging once they arrived during the course. All his students incurred the opportunity
20 cost of lost wages during the days they devoted to taking his worthless course rather than earning money
21 at their day jobs. The \$1,000 - \$1,600 Pooley charged his victims plus costs was particularly significant
22 in the less than wealthy community of professional skydivers, and particularly so for those who saved
23 the money in foreign currencies with unfavorable exchange rates.

24 Certain victims lost more than money. While this wire fraud case is not a wrongful death case
25 and evidence of the death of one of Pooley's students and a customer was not admitted at trial, at
26 sentencing, when considering the foreseeable harm which resulted from Pooley's improper sign-offs, it
27 is appropriate to acknowledge that tandem instructor candidate YongHyeon Kwon should never have
28 been signed off on without a legitimate Examiner drilling him on how to address a drogue malfunction

1 and ensuring that he could handle that malfunction occurring in the sky with a passenger. Yet, after
2 Pooley used Garmashov's pre-printed signature to sign off on Kwon's USPA and UPT Tandem
3 Instructor certifications and authorized Kwon to jump with unsuspecting members of the public, Kwon
4 did mishandle a basic drogue malfunction. Kwon and his 18-year-old passenger lost their lives. Several
5 of the students Pooley taught recounted in interviews how the retraining courses they took with
6 legitimate Examiners were completely different than Pooley's "absolute minimum training," nonexistent
7 instruction, or "inconsistent and spaced out" course, and to the contrary featured Examiners drilling
8 them on safety military style, yelling out an equipment malfunction as the students lay on the floor
9 wearing full parachute rigs, watching the student react instantly, and then repeating the exercise, until
10 the proper response to malfunctions was seared into the students' muscle memories. *See, e.g., PSR ¶¶*
11 21-23, Exhibit 1 at p. 2.

12 **B. The history and characteristics of the defendant**

13 This is not Pooley's first violation of the law or breach of the trust of people in his life. In April
14 2014, Pooley broke into his ex-wife's house, stole her motorcycle, re-entered the house, and was caught
15 with a gun, two magazines, a scope, large amounts of cash, and approximately four hundred pain pills.
16 PSR ¶ 56. One week later, the defendant got into a physical altercation with another ex, with whom he
17 shares a child, at Parachute Center. PSR ¶ 61. The victim told deputies that the defendant threw her to
18 the ground and stomped on her. PSR ¶ 61. The defendant claimed that the victim exaggerated the
19 situation due to ongoing child custody disputes. PSR ¶ 61. The defendant has never had custody of any
20 his children and remains by his own account approximately \$30,000 in arrears for child support. PSR ¶
21 80.

22 Pooley lies. His lies are at the heart of this case, obviously. He has even lied to the Probation
23 Officer, for no reason, like by telling her he graduated Boone High School in Indiana only for her to
24 learn from his high school principal that he dropped out with a GPA of 1.25. PSR ¶ 76. Pooley also
25 told the Probation Officer that from the day of the accident through present, he was a "self-employed
26 skydiver/videographer." He failed to mention that he did not stop conducting tandem skydives after the
27 accident. Pete Swann photographed him in a tandem rig with a customer well after he lost his tandem
28 instructor rating from USPA and UPT. *See* Exhibit 2 (photograph taken by Swann of the defendant

1 wearing a tandem rig with a customer approximately a year and a half post-accident). Pooley also
2 declined to submit documentation to enable the Probation Officer to fact check him, like not returning
3 the consent form for her to run a credit check, resulting in the highly unusual situation of a PSR without
4 a balance sheets of the defendant's assets and liabilities. PSR ¶ 81.

5 Pooley also has a history of not living up to his responsibilities or paying his debts, of which he
6 has accumulated approximately \$88,000. PSR ¶ 82. The defendant filed for bankruptcy in Iowa, still
7 owes approximately \$37,566 in State of California tax liens from 2008 to 2017, and still owes \$15,514
8 from a 2011 civil judgment against him. PSR ¶ 81. As noted above, he admits he is in arrears
9 approximately \$30,000 in child support. PSR ¶ 80. The defendant has apparently not sold the
10 approximately \$7,500 he holds in Bitcoin to pay his various debts or child support obligations. PSR ¶
11 81.

12 **C. The need for the sentence imposed to reflect the seriousness of the offense, promote**
13 **respect for the law, and provide just punishment.**

14 The victims, the skydiving network, and the broader community are looking to the upcoming
15 sentencing for accountability and justice. A high-end sentence is appropriate to reflect the seriousness
16 of Pooley's flagrant fraud scheme, promote respect for the law, and provide just punishment.

17 **D. To afford adequate deterrence to criminal conduct**

18 Pooley's crime was flagrant and well-publicized. It sent shockwaves through the close-knit
19 skydiving community to learn that Pooley, a trusted and well-known Tandem Examiner, actually lacked
20 a valid Examiner certification and approximately 140 skydivers who had taken his courses had to
21 undergo retraining. PSR, Sentencing Recommendation, p. 1. This case is being closely followed
22 throughout the skydiving world. A high-end sentence is appropriate to serve the objective of general
23 deterrence.

24 **E. To protect the public from further crimes of the defendant.**

25 As the Probation Officer aptly put it, "Pooley has expressed no remorse for his conduct or
26 acknowledged that his criminal negligence negatively impacted his students and the public as a whole."
27 PSR ¶, Sentencing Recommendation, p. 2. Pooley's failure to accept any responsibility weighs in favor
28 of a serious consequence to impress upon him that further crimes will not be tolerated. So too does

1 Pooley's criminal history, persistence in continuing to conduct tandem jumps after losing his
2 certifications, and false and perjurious statements and disrespectful, flip demeanor when interviewed by
3 agents and deposed on video in the wrongful death lawsuit about his conduct in connection with this
4 case. Pooley has proved remarkably difficult to get through to or deter, further warranting a high-end
5 sentence.

6 **III. CONCLUSION**

7 The United States respectfully requests that the Court impose a sentence of 27 months
8 imprisonment, followed by a three-year term of supervised release, as recommended by the Probation
9 Officer.

10 Dated: September 23, 2024

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